REMARKS

Claims 1 – 36 were originally presented.

Taking the claims in the order presented by the most recent Office Action:

Claims 8-9, 12-15, and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,548,648 to Yorke-Smith (hereinafter "Yorke-Smith") in view of U.S. Patent No. 6,668,325 to Collberg et al. (hereinafter "Collberg");

Claim 16 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Yorke-Smith in view of Collberg in view of U.S. Patent No. 6,507,868 to Simmon et al. (hereinafter "Simmon);

Claims 18 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yorke-Smith in view of U.S. Patent No. 5,365,589 to Gutowitz (hereinafter "Gutowitz");

Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Yorke-Smith and Gutowitz in view of U.S. Patent No. 5,420,942 to Levit (hereinafter "Levit");

Claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Yorke-Smith and Gutowitz further in view of Collberg;

Claim 21 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Yorke-Smith in view of Gutowitz and further in view of Simmon;

Claims 1-5, 7. 10-11, 23-24, and 26-36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yorke-Smith in view of U.S. Patent No. 5,768,372 to Sung et al. (hereinafter "Sung"); and

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Claims 6 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yorke-Smith in view of Sung and Collberg and further in view of Simmon.

Claims 1, 8, 18, 23, 27, 32, and 33 are currently amended.

Claim 12 is hereby canceled.

Claims 1-11 and 13-36 remain in this application.

This paper is being filed within 3 months of the mailing date of the Office Action.

LEE & HAYES, PLLC   14   ATTORNEY DOCKET NO. MS1-515US
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35 U.S.C. § 103

Respectfully, a distinguishing aspect of the claimed invention previously has been overlooked, and Claims 1, 8, 18, 23, 27, 32, and 33 have been amended to clarify the distinction.

More specifically, the Office Action indicated that original Claim 12 was unpatentable under 35 U.S.C. § 103(a) over Yorke-Smith in view of Collberg. However, although original Claim 12 is canceled in this paper, original Claim 12 addresses a distinguishing aspect of the claimed invention:

12. A method as recited in claim 8, wherein the transforming comprises:

augmenting at least one segment using a certain protection technique; and

inserting a **checkpoint**, which may be used to evaluate a validity of the augmented segment, within the protected digital good but outside of the augmented segment being evaluated.

(Emphasis added.). As is described in detail below, a "checkpoint" as recited in original Claim 12 is an element that is neither anticipated nor even suggested by any of the references. Accordingly, Claims 1, 8, 18, 23, 27, 32, and 33 have been amended to recite the element of using one or more checkpoints.

Although the rejection of original Claim 12 was predicated upon Yorke-Smith in view of Collberg, the Office Action cited no specific portions of Collberg in rejecting original Claim 12. Applicants would have included relevant portions of Collberg in these remarks to distinguish Collberg, but Collberg does not reference the use of "checkpoints."

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In fact, Yorke-Smith fails to describe anything that can be termed a "checkpoint." Similarly, not one of the references cited by the Office Action in support of rejections of any of the pending claims references or mentions a "checkpoint." As is described below at length, applicants submit that the reason that neither Yorke-Smith nor any of the other cited references use the term "checkpoint" is because none of the references disclose or suggest the use of anything even similar to a checkpoint as recited in original Claim 12. Nonetheless, although Yorke-Smith does not teach or suggest the use of one or more checkpoints, because the Office Action cited specific portions of Yorke-Smith in rejecting original Claim 12's recitation of a checkpoint, applicants will direct their remarks to distinguishing checkpoints from what is disclosed by Yorke-Smith.

Respectfully, in concluding that original Claim 12 was be unpatentable, the Office Action mistakenly equates a "checkpoint" with a "control block" as employed in Yorke-Smith:

> "In respect to claim 12, Yorke-Smith and Colberg disclose a method as recited in claim 8, wherein the transforming comprises:
>
> Augmenting at least one segment using a certain protection technique (see col. 1, lines 48-65); and **inserting a checkpoint,** which may be used to evaluate a validity of the augmented segment, within the protected digital goods but outside the augmented segment being evaluated (see Yorke-Smith, col. 3, lines 25-42)."

(Emphasis added.) The cited portion of Yorke-Smith references a description of FIG. 1 and describes Yorke-Smith use of control blocks that are positioned at the front of the encrypted data segments:

"The control block (CB) comprises a plurality of fields containing information concerning the format of the data bytes in the encrypted data block (EDB), in particular the encryption function (F) and an encryption key (K) used to encrypt the data segment (DS) and an indication of the starting position (S) of the encrypted data segment (EDS) within the encrypted data block (EDB) which is chosen at random."

(Column 3, Lines 33 through 40). Referring to FIG. 1 of Yorke-Smith, the control blocks described – like virtually all "control blocks" used in data and file structures – are appended to the data segments to which they refer, and are repositories of information about the attached data segment. In fact, considering not only FIG. 1, which is referenced by the portion of Yorke-Smith cited in the Office Action, but also FIG. 3, **every** control block contemplated by Yorke-Smith is appended to the front of each corresponding encrypted data segment at the start point S.

By contrast, as recited in original Claim 12 and in the currently amended claims, the control blocks referenced in Yorke-Smith are neither equivalent nor comparable to checkpoints. The control blocks of Yorke-Smith, neither alone or in combination with Collberg or the other references cited, do not disclose or suggest checkpoints as recited in the claims as amended.

Furthermore, if anything, Yorke-Smith teaches away from the invention recited by the amended claims. More specifically, to enhance the protection afforded by its encryption of segments of a digital good, Yorke-Smith's describes only manipulating the format of fields **within** its control blocks:

"Although the embodiment of the present invention described herein uses the same format control block for each encrypted data block, a varying format can equally well be used. In such a case, each format may be chosen from a plurality of control blocks formats (CB.sub.1 to CB.sub.1) by generating a sixth random number from a predetermined range which maps to one of the plurality of possible control block formats (CD.sub.1 to CD.sub.1) as illustrated in FIG. 5 (L.sub.1, S, L.sub.2, F and K have the same meaning as above). Each control block (CB.sub.1 to CB.sub.1) would require a further field (C) to contain an identification of the particular format of the control block used. **Using such a technique to vary the format of the control block further increases the difficulty of. [*sic*] deciphering the contents of the control blocks and hence also increases the difficulty of decrypting the encrypted data segment.** Alternatively, if a particular sequence of control block formats was established such that both the encryption and decryption methods conformed to that sequence, the information contained in the control block could be deciphered [sic] Without the need to provide an indication therein of the particular control block format utilised."

(Column 4, Line 57, through Column 5, Line 10; emphasis added.) Because Yorke-Smith looks within the format of the control block to enhance whatever protection it affords, Yorke-Smith not only overlooks, but teaches away from the possibility of using checkpoints, inserted in the resulting digital good outside the data segments, to provide further

protection. Applicants respectfully submit that Yorke-Smith, if anything, teaches away from the invention recited by the Claims as amended.

CONCLUSION

Pending claims 1-11 and 13-36 are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the subject application. If any issues remain that prevent issuance of this application, the Examiner is urged to contact the undersigned attorney before issuing a subsequent Action.

Respectfully Submitted,

Dated: 5/25/2005   By: _____

Frank J. Bozzo
Reg. No. 36,756
Lee & Hayes PLLC
(206) 315-4001 ext. 103